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SERVICE DATE - DECEMBER 18, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB No. MC-F-20915

SUBURBAN TRANSIT CORP., ET AL  
--POOLING--  
AMERICAN LIMOUSINE SERVICE INC.

Decided: December 10, 1998

On January 6, 1998, Suburban Transit Corp. and Suburban Trails, Inc. (collectively Suburban), both of New Brunswick, NJ, and American Limousine Service, Inc., of Hamilton Township, NJ (applicants), jointly sought approval of a coordinated service and revenue pooling agreement (the Agreement) under 49 U.S.C. 14302. The Agreement concerns applicants' motor passenger transportation services between a park and ride facility near Exit 8A of the New Jersey Turnpike and New York, NY (the "8A Area Service"). By notice served and published in the Federal Register on February 27, 1998 (63 FR 10072), comments regarding the Agreement were requested by March 30, 1998. As no comments were received, we issued an administratively final decision on June 4, 1998. After issuance of the decision, letter-comments urging denial of the application were filed by Mr. Ira Hilfman,<sup>1</sup> Ms. Michelle Kamen, Mr. Bob Praetorius, Mr. Tom Rosenthal, and Ms. Rose Venutolo. As the letter-comments were filed too late to be considered in the decision, the Director of the Office of Proceedings responded that the letter-comments would be treated as petitions to reopen if copies of them were served on applicants' representative. On September 2, 1998, applicants' representative replied to certain letter comments.<sup>2</sup> We will accept the late-filed letter-comments, will treat them as petitions to reopen the proceeding, and will waive the \$150 filing fee for such petitions. To enable us to render an informed decision on the petitions to reopen, we are directing that applicants provide additional information for the record.

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<sup>1</sup> Mr. Hilfman enclosed petitions signed by numerous passengers for reinstatement of certain bus schedules: the 5:30 and the 5:45 a.m. buses leaving the 8A Service Area; and the 3:45 and the 4:15 p.m. buses leaving the Battery.

<sup>2</sup> The reply was directed to a June 25, 1998 letter from Mr. Tom Rosenthal, a June 26, 1998 letter from Mr. Bob Praetorius, and a July 1, 1998 letter from Ms. Rose Venutolo.

## BACKGROUND

We found in our June 4 decision that the Agreement would foster improved service to the public and economy of operation and would not unreasonably restrain competition. Petitioners argue that, since approval of the Agreement, the buses used by Suburban and American are overcrowded and unreliable, and fares have been raised by both carriers to the current rate of \$60.80 a week from \$30 a week. They further contend that the approved pooling will reduce service and competition.

Applicants counter that reopening is not justified as the very purpose of the pooling agreement is to facilitate the improvement of service by applicants, to enhance financial stability and thereby allow for more capital improvements, and to allow for more frequent departures. Applicants assert that, to the extent any persons are dissatisfied with the level of service provided by applicants, the approved agreement should lead to improved, rather than reduced, service to the traveling public. Further, applicants state that the \$60.80 rate was in effect before the pooling agreement was approved and that the lower fare was a promotional fare to encourage use of the park-and-ride facility. According to applicants, transportation options remain highly competitive. Applicants state that they serve over 900 passengers and note little opposition to the Agreement.

## DISCUSSION AND CONCLUSIONS

The Board may, on its own initiative, or on a party's petition, reopen a proceeding because of material error, new evidence, or substantially changed circumstances. See 49 CFR 1115.4. Petitioners' allegations that there is no competitive alternative to applicants' services and that bus operations have been cut by approximately one-third and fares have increased by 100% warrant reopening the proceeding for a more thorough review. To allow the Board to render an informed decision, applicants are directed to furnish for the record the following information:

1. Identify restrictions, if any, on who may perform transportation services from the 8A Park & Ride.
2. Provide information on how the bus service schedules have changed since approval of the Agreement.
3. Indicate empty seats per bus under the current bus service schedules.
4. Indicate whether passengers who patronize the 8A Park and Ride Lot can readily use the Princeton Junction parking lot for rail commuter service. Also indicate whether there is a waiting list for parking permits at Princeton Junction.

5. Submit evidence of what improvements have been made or are planned for improving service to the public in the future.

The service list has been appended to this decision.

We find:

Petitioners' concerns warrant reopening the proceeding for receipt of additional information and consideration of that information.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Petitioners' late-filed comments are accepted and will be treated as petitions to reopen.
2. This proceeding is reopened. Applicants' additional evidence is due January 7, 1999. Petitioners' replies are due February 8, 1999.
3. This decision is effective on December 18, 1998.
4. A copy of this decision will be served on the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams  
Secretary

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